

# **EXHIBIT 11**

## **(REVISED)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
Adv. Pro. No. 08-01789(SMB)  
Adv. Pro. No. 10-04468(SMB)

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,  
Defendant.

- - - - - x

In re:

BERNARD L. MADOFF,  
Debtor.

- - - - - x

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities, LLC,  
Plaintiff,

v.

KEN-WEN FAMILY LIMITED PARTNERSHIP;  
KENNETH W. BROWN, in his capacity  
as a General Partner of the  
Ken-Wen Family Limited Partnership;  
and WENDY BROWN,  
Defendants.

- - - - - x

DEPOSITION OF  
KENNETH WILLIAM BROWN  
Taken on Behalf of the Plaintiff  
DATE TAKEN: Monday, January 27, 2020  
TIME: 10 a.m. - 12:30 p.m.  
PLACE: Daughters Reporting, Inc.  
101 Northeast 3rd Avenue  
Suite 1500  
Fort Lauderdale, Florida 33301

Examination of the witness taken before:

Felecia Curreri, RPR  
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22 WENDY BROWN

23

24

- - -

25

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1           Deposition of KENNETH WILLIAM BROWN, taken  
2       before Felecia Curreri, RPR and Notary Public in  
3       and for the State of Florida at Large, in the above  
4                       cause.

5 THE COURT REPORTER: Raise your right  
6 hand, please. Do you swear or affirm that the  
7 testimony you are about to give will be the  
8 truth, the whole truth, and nothing but the  
9 truth?

10 THE WITNESS: I do.

11 Thereupon--

12 KENNETH WILLIAM BROWN,  
13 having been first duly sworn or affirmed, was  
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MARASCO:

17 Q. Mr. Brown, I'm sure you know I represent  
18 Irving Picard, the trustee in the lawsuit entitled  
19 Picard v. Ken-Wen.

20 I'm going to be asking you some questions  
21 today. If I ask you a question that you don't  
22 understand, just let me know and I'll do my best to  
23 rephrase the question. Don't guess at your  
24 answers. If you don't know, that's an acceptable  
25 answer as well.

1           The court reporter is going to be taking  
2   down my questions and your answers, so your answers  
3   have to be audible. Please just say "yes" or "no"  
4   rather than nodding. Also, to help our court  
5   reporter transcribe our conversation, we should try  
6   not to talk over each other. So please wait for me  
7   to finish my question before you answer and I'll  
8   not interrupt you while you are answering.

9           Your counsel may object to certain  
10   questions that I ask, but unless your counsel  
11   directs you not to answer, you should answer the  
12   question.

13           You can ask to take a break whenever you  
14   need, as long as there isn't a question pending.  
15   If you need a break at any time, please finish your  
16   response to an outstanding question and just let me  
17   know.

18           Does that work?

19         A.    Yes.

20         Q.    Before we begin, are you taking any  
21   medication or anything that may impair your ability  
22   to answer questions today accurately and  
23   truthfully?

24         A.    No.

25         Q.    Mr. Brown, have you ever been deposed

1 before?

2 A. Yes.

3 Q. How many times?

4 A. Numerous times.

5 Q. And in what types of matters have you been  
6 deposed?

7 A. Well, I was in the securities business, so  
8 it has a litigious nature to it, so I might have  
9 been deposed 50 times maybe.

10 Q. And was that in connection with a business  
11 that you owned?

12 A. A business that I owned and subsequent  
13 litigation.

14 Q. And what business was that?

15 A. I had a firm called K. W. Brown  
16 Investments and one called 21st Century Advisors.

17 Q. Do you understand that you are here today  
18 to provide testimony in connection with the  
19 Adversary Proceeding 10-04468 SMB in which you are  
20 personally named as a defendant?

21 A. Yes. I thought I was named as a general  
22 partner.

23 Q. That's correct. My apologies.

24 So, to clarify the record, you are named  
25 as a general partner, but you are not here as a



1 30(b)(6) witness, you are here in your individual  
2 capacity.

3 MR. ROHER: That's right.

4 THE WITNESS: Okay.

5 BY MS. MARASCO:

6 Q. Just to aid in the deposition today, just  
7 so you don't have to keep saying long names over  
8 and over, I'm going to define just a few terms so  
9 that we can see if we can agree to that definition.

10 So "BLMIS" should mean Bernard L. Madoff  
11 Investment Securities. Do you understand?

12 A. Yes.

13 Q. "Madoff" is Bernard L. Madoff, the person,  
14 but may be used interchangeably with BLMIS.

15 A. Yes.

16 Q. If I use the word "account," I'm talking  
17 about BLMIS Account 1-EM226-3 and I'll make it  
18 clear if I'm talking about a different account.

19 Does that make sense?

20 A. The number doesn't make any sense to me,  
21 but if you say it's Ken-Wen FLP, that would be the  
22 account.

23 Q. Okay, understood.

24 Did you meet with anyone to prepare for  
25 today's deposition?

1 A. No.

2 Q. Did you speak with anyone to prepare for  
3 this deposition today?

4 MR. ROHER: Other than counsel?

5 MS. MARASCO: Anyone at all.

6 THE WITNESS: No. Other than what you  
7 just saw now, maybe a couple of months ago  
8 with Mark a cursory discussion, nothing  
9 detailed.

10 BY MS. MARASCO:

11 Q. Did you review any documents or materials  
12 to prepare for this deposition?

13 A. I started to, but I didn't get too far.

14 Q. So I see you have a pile of documents  
15 there.

16 A. Just a bunch of printouts that I have.

17 Q. From where did you obtain those printouts?

18 A. I think they were mostly the responses to  
19 the pleadings that were provided in this case.

20 Q. Provided to you?

21 A. No, provided by us to opposing counsel.

22 Q. Do you recall when they were provided to  
23 opposing counsel?

24 A. 2018. Approximately 2019.

25 MS. MARASCO: This request would probably

1 go to counsel, but to the extent that anything  
2 was provided to opposing counsel that has not  
3 been provided to the trustee, I would make a  
4 request for that.

5 MR. ROHER: That's fine, but if you could  
6 clarify. My understanding is we've only  
7 produced documents to you that you've asked  
8 for. We didn't produce separate documents to  
9 anyone else.

10 THE WITNESS: Could I be more specific for  
11 you?

12 BY MS. MARASCO:

13 Q. Please do.

14 A. If you don't mind.

15 Things like admissions production.

16 MR. ROHER: Discovery request.

17 THE WITNESS: Discovery request. That's  
18 what I basically was reviewing.

19 BY MS. MARASCO:

20 Q. So your responses to the trustee's request  
21 for admissions and interrogatories; is that  
22 correct?

23 A. Yeah, that's more accurate. Right, yes.

24 Q. Just for purposes of the record, can you  
25 please state your full name.

1 A. Kenneth William Brown.

2 Q. And where do you currently reside,  
3 Mr. Brown?

4 A. I'm in between residences, but my current  
5 address that you have on record is 6340  
6 Breckenridge Circle.

7 Q. And where is that?

8 A. Lake Worth, Florida.

9 Q. Lake Worth?

10 A. Yes.

11 Q. Are you currently employed?

12 A. No.

13 Q. When were you last employed?

14 A. I think it was, like, March of 2008.

15 MS. MARASCO: Let me go off the record for  
16 a moment.

17 (Discussion held off the record).

18 MS. MARASCO: We can go back on the  
19 record.

20 BY MS. MARASCO:

21 Q. So we are back on the record. We just  
22 discussed that you were last employed in  
23 approximately 2008. And where were you last  
24 employed?

25 A. At the two firms that I founded.

1 Q. What firms were they?

2 A. K. W. Brown Investments and 21st Century  
3 Advisers.

4 Q. And those were investment advisement  
5 firms?

6 A. Yes.

7 Q. What is your educational background?

8 A. I have an MBA in business from University  
9 of Miami and I have Bachelor's Degree from Temple  
10 University.

11 Q. A bachelor's degree, did you say in  
12 accounting?

13 A. I had more general business.

14 Q. Do you have any accounting certifications?

15 A. No.

16 Q. Do you have any investment advisory  
17 certifications?

18 A. Yes.

19 Q. What kind of certifications?

20 A. I had a certification called a Registered  
21 Investment Advisor.

22 Q. When did you obtain that certification as  
23 a Registered Investment Advisor?

24 A. Probably the early '90s.

25 Q. Do you have any other specialized

1 training?

2 A. I have an honorary degree in finance from  
3 Florida Atlantic University.

4 Q. When did you obtain your honorary degree  
5 from Florida Atlantic University?

6 A. 2017, 2018 -- say 2018.

7 Q. Congratulations.

8 A. Thank you.

9 Q. How long was K. W. Brown Investments  
10 operational?

11 A. From 1986 to 2008.

12 Q. And what about 21st Century?

13 A. From 1992 to 2008.

14 Q. So is it accurate to say that you owned  
15 both businesses and they were operational  
16 simultaneously?

17 A. They were. They were associated.

18 Q. They were associated?

19 A. Yes.

20 Q. Can you explain that? In what way were  
21 they --

22 A. In the securities business, you have a  
23 broker/dealer and RIA, registered investment  
24 advisor, that need to be followed as associated  
25 businesses for purposes of regulation if it's

1 common ownership.

2 Q. So both of those businesses were under  
3 common ownership?

4 A. Yes.

5 Q. Is that by you or by you and someone else?

6 A. By myself and my spouse.

7 Q. And who was that?

8 A. And my sons. Wendy Brown, formally known  
9 as -- currently known as Wendy Werner.

10 Q. Just so I'm clear, you and Wendy Werner  
11 both owned K. W. Brown Investments?

12 A. No. Our sons trusted. We have three sons  
13 and they had a revocable trust that owned it and we  
14 were the trustees. So that would be considered  
15 common ownership for securities purposes.

16 Q. Understood.

17 Was it the same situation for 21st  
18 Century?

19 A. No, 21st Century was owned -- I want to  
20 say 50/50, but I think I might have had 51. I  
21 don't remember. But I think it was 50/50 or maybe  
22 it was 75/25, but it was common ownership between  
23 the two of us.

24 MS. MARASCO: I'm going to hand, what I'll  
25 mark as Exhibit 1, to the court reporter.

1 (Plaintiff's Exhibit 1, Agreement, was  
2 marked for identification.)

3 BY MS. MARASCO:

4 Q. Do you recognize this document?

5 A. Yes.

6 Q. What is it?

7 A. This is the limited partnership agreement,  
8 as it says, for Ken-Wen Family Limited Partnership.

9 Q. Do you see a date on that document?

10 A. June 14, 2000.

11 Q. If you'll turn to the last page. Do you  
12 see your signature on this document?

13 A. Yes, that's my signature.

14 Q. And in what capacity did you sign the  
15 document?

16 A. General partner.

17 Q. So it's accurate to say that you were a  
18 general partner of Ken-Wen?

19 A. Yes.

20 Q. And then on that same page to the right,  
21 do you see Wendy Brown's signature?

22 A. I do.

23 Q. Was Wendy also a general partner?

24 A. Yes.

25 Q. Other than Wendy and you, were there ever



1 any other general partners of Ken-Wen?

2 A. Not while I was a general partner.

3 Q. Can you explain that answer?

4 A. Yes. I resigned on February 29th, 2008.

5 So Wendy Brown was the sole general partner  
6 subsequently for the period of time that the  
7 partnership existed.

8 Q. And why did you resign on February 29th,  
9 2008?

10 A. It was according to an agreement that I  
11 had entered into for me to resign and I then became  
12 -- my 1 percent general partner interest became an  
13 interest as a limited partner.

14 Q. You already had a limited interest as a  
15 partner; is that right?

16 A. Yes. 49 percent of my interest was  
17 limited partnership and 1 percent general  
18 partnership split that later became a limited  
19 partnership interest after February 29th, 2008.

20 Q. Why was the partnership initially formed?

21 A. I was -- on the advice of counsel.

22 Q. What was its primary purpose?

23 A. To segregate certain assets with certain  
24 different business functions that we had as a  
25 family at the time.

1 Q. What type of assets?

2 A. Well, this was an asset that really was  
3 provided from my spouse's family that later rolled  
4 into Ken-Wen Family Limited Partnership. So I  
5 tried to keep it separate from the assets that I  
6 had earned.

7 Q. You said this was an asset that came from  
8 Wendy Brown's family. What asset are you referring  
9 to?

10 A. The Ken-Wen asset.

11 Q. Are you referring to the partnership?

12 A. Yes. It was funded with a former trust  
13 that matured for my spouse because of her age, so  
14 rather than have it individually owned, we decided  
15 to put it in a family limited partnership for all  
16 the legal reasons of estate planning and  
17 distribution purposes later on. That was the  
18 advice of counsel.

19 Q. And do you recall what was the amount that  
20 funded the partnership?

21 A. Don't recall.

22 Q. In you'll turn to Section 1.6 of the  
23 agreement that you have in front of you, Exhibit 1,  
24 that is on page 2.

25 A. Page 2, got it.

1 Q. Do you see 1.6 there?

2 A. I do.

3 Q. And the heading is "purpose". It says,  
4 "The purpose of the partnership's business is to  
5 own, acquire, sell, and lease real estate,  
6 marketable securities and other investment property  
7 of any type, kind or description."

8 Did I read that first fragment correctly?

9 A. Yes.

10 Q. Okay. Did Ken-Wen own, acquire, sell, and  
11 lease real estate?

12 A. No.

13 Q. Did it own, acquire -- strike that.

14 Did it own real estate?

15 A. No.

16 Q. Did it sell real estate?

17 A. You know, can I reflect back a little bit?

18 Q. Certainly.

19 A. It's been a long time, but there may have  
20 been real estate, limited partnerships that also  
21 were created at Wendy's family level. So the  
22 genesis of those would have been Werner family  
23 assets that may have gone in there. They may have  
24 been some limited partnerships in there, but we  
25 didn't acquire, sell or lease any real estate, it

1 would have been transferred.

2 Q. So your recollection is that the  
3 partnership may have transferred certain real  
4 property?

5 A. May have had limited partnership interest  
6 in other projects that were acquired or generated  
7 during Wendy's family's investment experiences. So  
8 the partnership did not acquire anything other than  
9 what would have been transferred to it by the  
10 formulation of the partnership.

11 Q. Did the partnership sell marketable  
12 securities?

13 A. Well, the only securities that it had sold  
14 would have been with the Madoff organization.

15 Q. Can you explain that?

16 A. Well, the partnership was setup primarily  
17 to transfer the Madoff account into that  
18 partnership. There may have been, like I said,  
19 transfers of other real estate, limited  
20 partnerships' interest that were also my spouse's,  
21 origination from her family, nothing that I  
22 acquired or did. Neither was the Madoff thing,  
23 that anything that I acquired or did.

24 Q. So am I understanding correctly that the  
25 partnership was formed to transfer the Madoff

1 account into the partnership?

2 A. I think the partnership was formed through  
3 these various things, but what took place was the  
4 Madoff account became Ken-Wen and whatever limited  
5 partnership interests that were owned by this trust  
6 that Wendy had had would have -- may have gone into  
7 this also. I'm not clear. It's 2008 to today. I  
8 have a memory like a steel trap with sports.

9 Q. What was your role in the Ken-Wen  
10 partnership?

11 A. Basically monitoring the -- overseeing and  
12 looking at the account. I had no investment  
13 influence on the account whatsoever, as compared to  
14 my business, which I had investment influences  
15 over.

16 Q. When you say "your business," are you  
17 referring to K. W. Brown Investments?

18 A. And 21st Century, yes.

19 Q. When you say "my business," you are  
20 referring to both entities?

21 A. That would be good, yeah. We can keep it  
22 that way.

23 Q. Was there any relationship between the  
24 business that we just defined and the partnership?

25 A. None.

1 Q. Just to take a step back. You indicated  
2 that your role in the Ken-Wen partnership was  
3 essentially monitoring the account. What does that  
4 involve?

5 A. From time to time, I would review the  
6 statements as they came in, you know, they were  
7 mailed to the house and essentially Madoff was a  
8 competitor, but nothing with any decision making  
9 effort. It was all just, well, this is what he did  
10 this month, okay. So it was just like a review,  
11 nothing specific, nothing in detail. It was all  
12 very casual and I didn't like his statements.

13 Q. Why?

14 A. I don't know. I just didn't like them. I  
15 thought they were just plain statements without a  
16 lot of description.

17 Q. In your experience is it -- was it an  
18 unusual statement?

19 A. It was just plain Jane without really any  
20 information or backup. I would like to have more  
21 transparency with my clients and what their  
22 statements look like.

23 Q. Did you ever have reason to suspect that  
24 something was amiss because the statements were so  
25 "plain Jane" as you said?

1           A.    No, I never had any suspicion that was  
2   amiss or could find fault with anything that would  
3   have been fraudulent or illegal. I just question  
4   the investment philosophy in my mind. That's it.  
5   But that was because I was distant. I had no  
6   influence on it because it was an account that was  
7   briefly established and the whole purpose of the  
8   partnership was to provide a vehicle for it to  
9   operate.

10          Q.    Did you have authority to make trades on  
11   the account?

12          A.    No. You mean with Madoff? No.

13          Q.    What did you have authority to do, if  
14   anything?

15          A.    Well, I had the authority to do any of  
16   these things outside of the Madoff business or the  
17   limited partnerships, but nothing was ever done  
18   that way because we also had another family limited  
19   partnership which I had specific control over.  
20   This was passive.

21          Q.    What do you mean when you say "passive"?

22          A.    I had no activity with it. Passive.

23                MS. MARASCO: I'll just note for the  
24   record it's 10:21. We have two individuals  
25   who just walked in, who I suspect being

1 Ms. Werner and Mr. Bernfeld; is that correct?

2 MR. BERNFELD: Correct.

3 MS. MARASCO: We'll just go off the record  
4 very briefly.

5 (Discussion held off the record).

6 MS. MARASCO: I'm ready to go back on the  
7 record. All set? Okay.

8 BY MS. MARASCO:

9 Q. We are back on the record. It's  
10 10:26 a.m.

11 We just completed discussions about the  
12 partnership agreement. You can put that to the  
13 side for now. I don't have anymore questions for  
14 that document at this time.

15 We just discussed that Ken-Wen had an  
16 investment account at BLMIS; is that correct?

17 A. Yes.

18 Q. And we discussed that Ken-Wen held that  
19 account in the partnership name; is that correct?

20 A. Yes.

21 Q. Okay. And you may have mentioned this  
22 before, but do you recall the account number?

23 A. No.

24 Q. Okay. Was there more than one account?

25 A. No.



1 Q. Did you ever use the account in connection  
2 with the operations of the partnership?

3 A. No.

4 Q. And when I say "use the account," what do  
5 you understand that to mean?

6 A. The account was inactive in any other  
7 function other than for the investment account with  
8 the Madoff firm, which was passively done. It was  
9 not operated by myself or anyone else, other than  
10 Madoff had full discretion.

11 MS. MARASCO: Okay. I am going to hand to  
12 the court reporter and ask her to mark two  
13 exhibits. One is Mr. Brown's answer to the  
14 amended complaint and the other one is Wendy  
15 Brown, a/k/a Wendy Werner's answer to the  
16 complaint. I'll ask them to be marked as  
17 Exhibits 2 and 3, respectively.

18 (Plaintiff's Exhibit 2, Ken Brown's  
19 Answer, was marked for identification.)

20 (Plaintiff's Exhibit 3, Wendy Brown's  
21 Answer, was marked for identification.)

22 MR. ROHER: Which one is two?

23 MS. MARASCO: Two is the one on top. It  
24 is Mr. Brown's.

25 BY MS. MARASCO:

1 Q. So I'm looking at Exhibit 2 now which is  
2 your answer to the amended complaint. Look at the  
3 second page of your answer, Item Number 2.

4 It states that "defendant adopts the  
5 affirmative defenses asserted by Ken-Wen Family  
6 Limited Partnership and Wendy Brown DE89 to the  
7 extent applicable to defendant?"

8 Did I read that correctly?

9 A. Yes.

10 Q. Okay. With that said, I want to turn to  
11 Exhibit 3, and this is the answer filed by the  
12 limited partnership. Turn to Page 13, paragraphs  
13 69 to 70. Just let me know when you are there.

14 A. Which page again?

15 Q. Page 13, Paragraph 69.

16 A. 69. Okay, Got it.

17 Q. Looking at 69, this is under the caption  
18 Sixth Affirmative Defense. 69 reads, "Upon  
19 information and belief throughout the time that  
20 defendants maintained their account, their customer  
21 funds, along with customer funds of other victims,  
22 were frequently invested in various  
23 income-producing securities, including treasury  
24 instruments."

25 Did I read that correctly?

1 A. That's what it says, yes.

2 Q. So does this mean that Ken-Wen invested  
3 customer funds in the account?

4 A. No, it does not.

5 Q. What do you understand this to mean?

6 A. That part of the investment objective of  
7 Ken-Wen was to have assets that produced income  
8 that may have included treasury instruments, but  
9 all at the full discretion of what Madoff did with  
10 the various investments during the time period that  
11 he was managing the account.

12 Q. So if I'm understanding correctly, the  
13 partnership invested -- strike that.

14 The partnership held the account and  
15 customer funds were invested simultaneously in  
16 different income-producing securities; is that  
17 correct?

18 A. No, the customer funds would have been our  
19 -- would have been the account that Madoff held and  
20 we would have been the customer. We had no other  
21 customers in Ken-Wen. And the only other  
22 income-producing assets that might have been there,  
23 like I said previously with a qualification, is  
24 that there may have been some limited partnership  
25 interest that were acquired from Wendy's family's

1 investment decisions and assets. I don't know if  
2 they were part of Ken-Wen or not, but Ken-Wen  
3 specifically was a customer of Madoff and had no  
4 other customer funds.

5 Q. So when you refer to "customer funds,"  
6 you're referring to the Ken-Wen partnership?

7 MR. BERNFELD: To what?

8 MS. MARASCO: The Ken-Wen partnership.

9 THE WITNESS: Yes, I'm adopting this as  
10 Ken-Wen was the customer and it's related in a  
11 broad stroke as to all other victims that were  
12 of Madoff's who -- Madoff had other customers,  
13 but Ken-Wen was just a customer of Madoff.

14 BY MS. MARASCO:

15 Q. Did the account generate income for the  
16 partnership?

17 A. There was distributions made that were  
18 taken and at times there was treasury instruments  
19 and there was dividend producing stocks within the  
20 -- within the selection of assets. So, yes, it  
21 would have produced income for the account.

22 Q. You can put those exhibits to the side.

23 I'm going to hand another document to the  
24 court reporter to mark as Exhibit 4.

25

1 (Plaintiff's Exhibit 4, Agreement, was  
2 marked for identification.)

3 BY MS. MARASCO:

4 Q. Do you recognize this document?

5 A. It's my handwriting, but I don't know what  
6 relationship the document is.

7 Q. So this appears to be a partnership  
8 account agreement; is that correct?

9 A. I don't know. Is there a date on it?

10 Q. It does appear to be undated.

11 A. I have no idea what this is and when it  
12 was done.

13 Q. Do you see the --

14 A. This might have been the liquidating of  
15 the account, but I don't know. The account was  
16 liquidated. It doesn't have an account number or  
17 anything.

18 Q. If you look at the top of the page, do you  
19 see that writing? It says "1EM22630-40".

20 A. Yeah, I see that.

21 Q. Is that the account number?

22 A. I would not know.

23 Q. I'll represent to you that that is the  
24 account number and then underneath it, do you see  
25 where it says "Ken-Wen Family LP Limited"?

1 A. I see that.

2 Q. And you said you recognized your  
3 handwriting. Do you also see your signature at the  
4 bottom of the page?

5 A. Yes, I also see Wendy Brown's signature.

6 Q. And you see her signature right beneath  
7 yours, right?

8 A. Yes.

9 Q. So looking at this document now, do you  
10 have any understanding of what the purpose of this  
11 document might be?

12 A. I had no idea when this document was  
13 signed and sent.

14 Q. If you look at the last paragraph, it  
15 says, "Bernard L. Madoff Investment Securities,  
16 a/k/a BLMIS, is instructed to direct all notices or  
17 communications, including demands, notices,  
18 confirmations, reports and statements of account  
19 for the partnership in connection with the  
20 partnership account as follows."

21 Did I read that correctly?

22 A. Yes.

23 Q. Did you receive notices or communications  
24 from BLMIS?

25 A. Yes. Madoff Securities would have had to

1 open the account with the Ken-Wen partnership  
2 agreement. So -- and the address in which they  
3 would have sent their reports, notices and  
4 statements would have been 405 Southwest Atlantic.

5 Q. Was that a personal address or was that a  
6 business address?

7 A. That was a family address.

8 Q. When demands, notices or confirmations or  
9 reports or any of those things were sent to this  
10 address, is it your testimony that you reviewed  
11 those documents?

12 A. Well, I went -- at the time I received the  
13 notices and documents at the time I was living  
14 there, I may have reviewed them, but it wasn't  
15 anything other than just a cursory, casual review,  
16 because we had no decision making power over the  
17 account.

18 Q. How long did you reside at the address 405  
19 Southwest Atlantic Drive?

20 A. I think I had left after a hurricane,  
21 2005, maybe 2006.

22 Q. Did you ever change your address with the  
23 BLMIS?

24 A. No.

25 Q. Did you ever -- after leaving that address

1 in 2005, did you subsequently obtain a different  
2 address?

3 A. I did.

4 Q. And did you ask BLMIS to send  
5 communications to that new address?

6 A. No, I did not. I had no reason to.

7 Q. You can put that document to the side.

8 I'm going to hand another document to the  
9 court reporter and this will be Exhibit 5.

10 (Plaintiff's Exhibit 5, Tax Information,  
11 was marked for identification.)

12 BY MS. MARASCO:

13 Q. Here you go (handing).

14 Sir, I've handed you a document marked as  
15 Exhibit 5. At the top it says "important new tax  
16 information."

17 Have you seen this document before?

18 A. I signed it, so I must seen it, but I  
19 don't know anything about it.

20 Q. If you take a second to look at it, would  
21 that help?

22 A. No.

23 Q. Does this document appear to be dated?

24 A. No.

25 Q. Looking at this document, do you have any



1 understanding of what its purpose might be?

2 A. I guess something in the securities rules  
3 changed that they had to start reporting  
4 withholding. I don't know. That could have been  
5 any time during the early part of -- the year 2000  
6 or something.

7 Q. Do you see the line that says "account  
8 number"?

9 A. Yes.

10 Q. What does it say there?

11 A. 1EM22630/40, whatever that means.

12 Q. Is that Ken-Wen, the partnership's tax  
13 identification number there?

14 A. It is.

15 Q. Did --

16 A. I think. It looks like the number,  
17 because I think it was on the front of the  
18 partnership, if I remember right.

19 It was written on top of that. That's how  
20 it's reflected. It looks like the same.

21 Q. And I will actually give -- that's the  
22 actual exhibit --

23 A. So that would correspond to what's written  
24 there, but I don't know.

25 Q. Did Ken-Wen file tax returns?

1 A. It did.

2 Q. Did it regularly file tax returns?

3 A. Yes.

4 Q. Did the accountant -- I'm sorry.

5 Did the partnership use an accountant to  
6 prepare tax returns?

7 A. Yes, it did.

8 Q. What was the name of the accountant?

9 A. Shaw and Associates.

10 Q. Other than preparing tax returns, did Shaw  
11 and Associates provide any other services to the  
12 Ken-Wen partnership?

13 A. It was at Shaw's recommendation that the  
14 partnership -- and corroborated with her as to, you  
15 know, staying with the Madoff organization and the  
16 profitability or the return -- the account status,  
17 she was very satisfied with. Her name was Kara  
18 Shaw and she kind of addressed the issue and was  
19 very positive about the relationship. So taking  
20 advice of the C.P.A. is the -- essentially what I  
21 think the partnership trustees did.

22 Q. How did the relationship between Ken-Wen  
23 and Shaw and Associates come to be?

24 A. It was -- again, it was primarily because  
25 of the relationship with the Werner family and the

1 assets that were involved in Ken-Wen that Kara Shaw  
2 was also the family C.P.A. for the Weners, so  
3 therefore it carried over into our tax counsel and  
4 Shaw and Associates providing that service to Ken  
5 and Wendy as a married couple.

6 Q. So my understanding that Shaw and  
7 Associates provided potentially tax services to the  
8 Werner family and that's how you came to meet  
9 Ms. Shaw?

10 A. Yes.

11 Q. And it's my understanding that Ms. Shaw is  
12 currently deceased; is that --

13 A. Yes.

14 Q. And do you recall when she passed away?

15 A. I want to say 2016. I'm not sure. 2017.  
16 Something like that.

17 Q. When Shaw and Associates prepared tax  
18 returns for the partnership, who provided the  
19 information to Ms. Shaw?

20 A. I don't recall, but Ms. Brown would  
21 probably have provided the information, if Kara  
22 Shaw didn't get it directly as a duplicate  
23 statement. She may have gotten duplicate  
24 statements as far as I know.

25 Q. When you say "duplicate statements," you

1 mean copies of statements sent to you would also be  
2 sent to Ms. Shaw from BLMIS?

3 A. Yes. She was very familiar with the  
4 account.

5 Q. Did Ms. Shaw have any decision making  
6 authority with respect to the account?

7 A. Just advising us. She made no decisions  
8 on the account, just advising us to -- as to the  
9 general tax information and the overall account  
10 status family with Madoff. She was, like I said,  
11 very happy with Madoff.

12 Q. When the partnership provided Ms. Shaw  
13 with documents for tax preparation purposes, do you  
14 recall whether those documents were returned?

15 A. No.

16 Q. No, you don't recall?

17 A. No, I don't recall.

18 Q. Did you personally pay taxes on BLMIS'  
19 income?

20 A. We filed a joint tax return, so, yes.

21 Q. Do you recall how much you paid the IRS  
22 annually between 2006 and 2008?

23 A. From just the -- this account or from our  
24 overall?

25 Q. From just this account.

1 MR. BERNFELD: "This" meaning BLMIS?

2 MS. MARASCO: The "account" was defined at  
3 the beginning of the deposition to include  
4 account 1-EM226-3.

5 MR. BERNFELD: Okay.

6 THE WITNESS: I think our taxes could have  
7 ranged anywhere from 60,000 to 100,000.

8 BY MS. MARASCO:

9 Q. Each year?

10 A. Yes, because we had other income that was  
11 also portfolio income, so that would have been in a  
12 high tax range during that period.

13 Q. Do you recall where your tax returns for  
14 that period might be located?

15 A. I think -- for the Ken-Wen company?

16 Q. Correct.

17 A. I wouldn't have those, that I'm aware of.  
18 Personal tax returns, I think we may have, but I  
19 don't think I have -- I don't know about the tax  
20 returns for Ken-Wen.

21 Q. Do you recall the last time that the  
22 Ken-Wen partnership filed a tax return?

23 A. No.

24 Q. And you testified earlier that you  
25 resigned from the partnership in 2008; is that

1 correct?

2 A. Yes, February 29, 2008.

3 Q. Okay.

4 A. I think there would be tax returns or tax  
5 reporting done after that.

6 Q. Did you ever receive a tax refund in  
7 connection with the taxes paid on behalf of the  
8 partnership?

9 A. I doubt it.

10 Q. You can put that document to the side.

11 Did you personally withdraw funds from the  
12 BLMIS account?

13 A. Can you clarify what you mean?

14 Q. In your capacity as a general partner, did  
15 you withdraw funds from the account?

16 A. Yes, as a general partner funds were  
17 withdrawn from the account.

18 Q. And how did you go about making a  
19 withdrawal?

20 A. It was generally a letter or a  
21 correspondence to the Madoff organization and there  
22 was one specific guy there who did most of the --  
23 Frank or somebody did most of the transactions.

24 Q. And how did you know that Frank did most  
25 of the transactions?

1           A.     Because he would take the call. I don't  
2     know if that's the right name. I'm just trying to  
3     remember.

4           Q.     Right, understood.

5                    You said he would take the call. What  
6     call?

7           A.     If a distribution was going to be made,  
8     generally, I think, it was casually done by picking  
9     up the phone and calling the organization and  
10    asking how they could facilitate the transfer and  
11    we had to do something where they -- a form that  
12    would be signed and sent to his -- a specific  
13    person at the firm. If I remember right, it was  
14    faxed or mailed. I don't remember.

15          Q.     So if I understand correctly, you would  
16    call BLMIS and receive instruction about how to  
17    make a written request?

18          A.     Yes.

19          Q.     Okay. As between you and Wendy, who would  
20    make the withdrawal request?

21          A.     Well, up until 2008, it would have been  
22    jointly.

23          Q.     Right, but when you call -- say when you  
24    called BLMIS, did you pick up the phone or was it  
25    more likely Wendy?

1 A. I don't remember.

2 Q. Did you both have authority to make a  
3 withdrawal?

4 A. Yes.

5 Q. So, for example, if Wendy were to make a  
6 request for withdrawal, would you receive notice of  
7 that?

8 A. Yes.

9 Q. How?

10 A. Well, the money would probably have gone  
11 into our personal accounts.

12 Q. And what personal accounts would that have  
13 been?

14 A. A joint account or another account or an  
15 investment or something. It was always used for  
16 specific purposes to try to do something for -- in  
17 the way of a business transaction or an investment  
18 transaction.

19 Q. You said "the funds might be deposited  
20 into a joint account" and I know you reference a  
21 couple of accounts. Where might those accounts  
22 have been held?

23 A. At a bank.

24 Q. Do you recall which bank?

25 A. I think we did business with Bank of



1 America at the time and other banks. We had, like,  
2 three or four banks. I don't know. I didn't do  
3 the banking, Ms. Werner did.

4 Q. You said you would receive confirmation of  
5 any request for withdrawal, because you would see  
6 the money in the account. Am I recalling that  
7 correctly? In your bank account.

8 A. No, no. It would be -- the withdrawal  
9 would have been directed to have the withdrawal  
10 done. Myself and my spouse would have directed the  
11 Madoff organization to send a withdrawal. So, I  
12 don't know which account it would go into, but it  
13 would come to as a family asset.

14 Q. And you don't know where the funds would  
15 be deposited?

16 A. No, not at this time.

17 Q. Did the partnership have a separate bank  
18 account?

19 A. I think so, yes.

20 Q. Where?

21 A. Probably Bank of America.

22 Q. I'm going to hand to the court reporter  
23 another exhibit to mark as Exhibit 6.

24 (Plaintiff's Exhibit 6, Ken-Wen  
25 Investments, was marked for identification.)

1 BY MS. MARASCO:

2 Q. All right. You have in front of you a  
3 document that's been marked as Exhibit 6.

4 Do you see the heading on that document?

5 A. Yes.

6 Q. And what is the heading?

7 A. Ken-Wen Investments.

8 Q. And we discussed earlier, that was one of  
9 the two businesses that you owned; is that correct?

10 A. Yes, that's right.

11 Q. Okay. Do you see a date on this document?

12 A. I don't.

13 Q. If you --

14 A. Oh, yes, I do. Now I see it.

15 Q. And what date is that?

16 A. April 20th, 2005.

17 Q. And this appears to be a letter signed by  
18 you to BLMIS; is that correct?

19 A. Yes.

20 Q. Did you prepare this document?

21 A. Probably.

22 Q. Do you recall whether anyone assisted you?

23 A. I didn't type. I never typed.

24 Q. So someone would have helped you type up  
25 the letter?

1           A.    Yes, yes, and probably proofread it and I  
2   probably just signed it.

3           Q.    So it would have been, you know, someone,  
4   just a typist and not an attorney or someone like  
5   that; is that right?

6           A.    It could have been Wendy or somebody in  
7   the office, but anyway, I didn't type.

8           Q.    Okay.

9           A.    I don't think we would have let somebody  
10   in the office do this. I think it would have been  
11   probably between her and myself. She was a very  
12   good typist.

13          Q.    And that is your signature at the bottom,  
14   right?

15          A.    It is.

16          Q.    And I see you signed it Ken Brown, GP,  
17   Ken-Wen FLP; is that correct?

18          A.    Yes.

19          Q.    And who is this letter addressed to?

20          A.    "Attention Frank." There we go.

21          Q.    And just to clarify. How did you know to  
22   address this letter to Frank Pascali?

23          A.    Like I said, it was known when you call  
24   the office that he would be the one you would be  
25   directed to, not that I had any conversations with

1 him, I just remember -- I don't know Frank.

2 Q. And taking a look at this document here,  
3 do you know what the purpose of it is?

4 A. The purpose is probably for a securities  
5 interest reason, because of the businesses that we  
6 were in, that we had to copy, as it says,  
7 interested party agreement with RBC Santora, which  
8 was another bank that we did primarily a lot of our  
9 business accounts with. It was probably directed  
10 because of some kind of securities purpose. So it  
11 was really a -- it's a disclaimer that was probably  
12 required by the Madoff organization because of our  
13 business is being similar. I'm guessing. I don't  
14 know. I don't know why we would do whatever we  
15 were asked to do. It wouldn't be something that we  
16 were asked to do. It wouldn't be something that we  
17 would do, I don't think. It wasn't directed by us.

18 Q. So looking at this letter, is it accurate  
19 to say that this is adding RBC Santora as a  
20 beneficial party to the account?

21 A. It may have been because RBC Bank may have  
22 had a litigation interest against us. Maybe that's  
23 why, I don't know, or it could have been a  
24 securities purpose, but I don't recall anything  
25 about this agreement or this letter.

1 Q. Do you see handwriting on this paper as  
2 well?

3 A. No, other than -- not handwriting I  
4 recognize.

5 Q. But you do see the handwriting?

6 A. Yes.

7 Q. That's not your handwriting?

8 A. None of it, no.

9 Q. Do you see at the top where it says "no  
10 shot" (indicating)?

11 A. Yes.

12 Q. What do you understand that to mean, if  
13 anything?

14 MR. ROHER: Object to form.

15 THE WITNESS: I have no idea. I don't.

16 None of this writing makes any sense to me.

17 BY MS. MARASCO:

18 Q. Okay. And so we discussed the date  
19 before. Right above the date, do you see a  
20 reference number?

21 A. Yes.

22 Q. What does that say?

23 A. 1EM2264-0.

24 Q. And so we discussed previously that there  
25 were documents with the identification

1 1-EM22630-40. Do you recall that?

2 A. I see that, yes.

3 Q. Why might this say 1-EM226-4-0?

4 A. I can only guess, okay, it would seem like  
5 the 4-0 would be a specific account within the  
6 Madoff account structure. One might be a cash  
7 account. One might be a special option account.  
8 One might be a margin account, all under the same  
9 account number, because you have various divisions.  
10 If you have a securities account and you have only  
11 cash account, in our firm it would come out dash  
12 one. Maybe because of the Madoff organization they  
13 had one, two, three, four, and they made it, like,  
14 30, 40 for their own accounting purposes.

15 Q. So I understand that this is your  
16 understanding or your attempt at an explanation,  
17 but is it correct to understand that it would be  
18 one account that would be sectioned off?

19 A. No, it's just one specific account with  
20 different subsections within. It could be a cash  
21 account, margin account, options account,  
22 securities, treasury bond account, something like  
23 that. Why it was listed dash four, I don't know.  
24 It was only one account, though.

25 Q. And how might you know to distinguish as

1 between 1-EM226-4-0 or -3-0?

2 A. I wouldn't have no distinction.

3 Q. So to your recollection, when you prepared  
4 this letter or dictated this letter, how did you  
5 know the account number to include?

6 A. Probably Mr. -- let's say Frank probably  
7 would have defined what account -- what the number  
8 would have been, because it wouldn't just come out  
9 because I never recognize 30/40. I don't ever  
10 recalling that. I remember an account number, but  
11 I don't know what that distinction would be.

12 Q. Okay. I'm going to hand another document  
13 to the court reporter to mark as Exhibit 7.

14 (Plaintiff's Exhibit 7, Agreement, was  
15 marked for identification.)

16 BY MS. MARASCO:

17 Q. You've just been handed what's now been  
18 marked Exhibit 7.

19 Do you recognize this document?

20 A. No.

21 Q. Was does it say at the top?

22 A. RBC Santora account control agreement.

23 Q. And then when I look down to the  
24 agreement, number one, do you see an account number  
25 filled in there on the first page?

1 A. I do.

2 Q. What account number is that?

3 A. It has the 3-0 instead of the 4-0.

4 Q. And so if you can just take a minute to  
5 just take a look at this document, to the extent  
6 you're not familiar with it.

7 A. Okay. It would appear now that it says  
8 "pledgor". Perhaps the Ken-Wen account was pledged  
9 to RBC Santora Bank, for some reason that I cannot  
10 recall, so that's why they have this letter over  
11 here as a disclaimer that would match something  
12 like this. Like I said, I didn't know for  
13 securities purposes or for the purposes of, I  
14 guess, a lending agreement. That's how this letter  
15 was originated. And that's what this form would  
16 back up. Pledgor's rights on the account.  
17 Pledgor's bank's securities interest. Basically  
18 it's saying that RBC Santora has a security  
19 interest in the values of this account should,  
20 whatever the purpose of this whole thing was about,  
21 should have -- would have been default. In other  
22 words, it's pledged.

23 Q. And why might Ken-Wen have pledged the  
24 account to RBC Santora?

25 A. Today I don't know.



1 Q. Just at the top of the page for clarity,  
2 would you mind just telling me what the date is on  
3 this document?

4 A. April 15, 2005.

5 Q. Does that comport with the date on the  
6 letter that's been marked Exhibit 6?

7 A. It does.

8 Q. Well, the letter actually was dated  
9 April 20th, 2005; is that correct?

10 A. Yes.

11 Q. And then this is dated April 15th, 2005?

12 A. Yes.

13 Q. If the account was pledged to RBC --  
14 Strike that.

15 Did the partnership also hold a bank  
16 account at RBC Santora?

17 A. Not that I recall.

18 Q. In your individual capacities, did you  
19 hold a bank account at RBC Santora?

20 A. I believe I did.

21 Q. In your individual capacity or as --

22 A. Joint account, perhaps.

23 Q. And do you recall the purpose of that  
24 account?

25 A. I think for just general business

1 purposes. Like I said, we had several different  
2 banks that we worked with. We liked to have more  
3 than one bank that we could rely on, so that would  
4 have been one of them. I think we had a  
5 relationship with a banker there that took a  
6 special interest in our accounts, so that's the  
7 only thing I remember.

8 Q. Would that account have been used in  
9 connection with the business which we defined  
10 earlier to be 21st Century or K. W. Brown  
11 Investment?

12 A. Most likely not. Most likely it was  
13 personal, but I'm not sure.

14 Q. Who might have had access to the RBC  
15 Santora account?

16 A. It would have been myself or Wendy.

17 Q. Do you recall whether you received  
18 contemporaneous bank statements?

19 A. I am sure we would have got statements,  
20 sure.

21 Q. Did you review them?

22 A. Casually, yes.

23 Q. You can put that document to the side.

24 I'm going to hand to the court reporter  
25 another document which can be marked Exhibit 8.

1 (Plaintiff's Exhibit 8, Request for  
2 Deposit, was marked for identification.)

3 BY MS. MARASCO:

4 Q. Do you recognize this document?

5 A. Yeah, it's in my handwriting. Done  
6 4-11-2006.

7 Q. What does it appear to be?

8 A. An instruction to Madoff Securities to  
9 deliver \$600,000 to a bank account.

10 Q. And what bank account is that?

11 A. I guess it would be a Ken-Wen bank  
12 account.

13 Q. At the second half of the page, do you see  
14 where it says, "Please forward \$600,000 by wire  
15 transfer to RBC Santora"?

16 A. Yes.

17 Q. So do you understand this to be a request  
18 for deposit into the RBC Santora Bank account?

19 A. Yes, that would probably explain why we  
20 had the other two letters in reverse order. Now  
21 it's more clear.

22 Q. And did you sign this document?

23 A. Yeah, I did.

24 Q. And you signed it as GP; is that correct?

25 A. At that time I was, yes.

1 Q. And this document appears to have been  
2 faxed?

3 A. Yes.

4 Q. Do you see at the top of the page it looks  
5 like it said "attention," it may have been crossed  
6 out, but it says "Robert". Do you see that?

7 A. I do.

8 Q. Who's Robert?

9 A. I don't know.

10 Q. Do you know why you would send this  
11 request to Robert and not Frank?

12 A. Don't know.

13 Q. So might you have -- consistent with your  
14 testimony before, would it be accurate to say that  
15 you would have called BLMIS and they would have  
16 instructed you who to send the request to?

17 A. Yes, that's true. Just clerical  
18 direction. That's all.

19 Q. Did you confirm that these funds were  
20 deposited into the account at RBC?

21 A. I'm sure. I don't remember now, but I  
22 guess they would have been.

23 Q. How might you confirm?

24 A. No way for me to confirm anything right  
25 now. I would think they went though because --

1 probably have another letter in there that didn't.

2 Q. Just at the top of the page, it says, K.  
3 W. Brown; do you see that?

4 A. Yes.

5 Q. Would that be because it was faxed from  
6 your business or does it mean something else?

7 A. No, that would just be because it was  
8 faxed from the business.

9 Q. I'm going to hand to the court reporter  
10 what will be marked as Exhibit 9.

11 (Plaintiff's Exhibit 9, BLMIS Statement,  
12 was marked for identification.)

13 BY MS. MARASCO:

14 Q. You've been handed what's been marked  
15 Exhibit 9.

16 Do you recognize this document?

17 A. No, I don't.

18 Q. Is it accurate to say that it appears to  
19 be a BLMIS statement?

20 A. It does.

21 Q. And it's at JPMorgan Chase?

22 A. Yes, which I'm not familiar with.

23 Q. I would represent to you that this is the  
24 account statement for BLMIS at JPMorgan Chase. The  
25 account number is 140-081703. And the date on this

1 statement, if you see in the top right-hand corner  
2 of the page, April 1, 2006 to 28 April 2006; is  
3 that correct?

4 A. Yes, but I don't know anything about it.

5 Q. Okay. If you can turn to Page 31 of 54.  
6 Page numbers are in kind of the center part of the  
7 page.

8 A. Okay.

9 Q. If you look at the first entry there, do  
10 you see the 17th April?

11 A. Yes.

12 Q. And do you see that it appears to be a  
13 "\$600,000 debit with an AC Ken-Wen Family LP  
14 Limited"?

15 A. Okay.

16 Q. Did I read that correctly?

17 A. Yes.

18 Q. And do you see at the -- just above that  
19 it says "via RBC Santora FL"?

20 A. Yes.

21 Q. And the account number there is 067012882;  
22 is that correct?

23 A. Yes.

24 Q. If you refer back to Exhibit 8, do you see  
25 the ABA number? Does that match?

1 A. The ABA number does match.

2 Q. Okay. So is it fair to say that the funds  
3 were transferred from the BLMIS account to the RBC  
4 Santora account held by Ken-Wen?

5 A. Yes.

6 Q. So is it accurate to say that Ken-Wen held  
7 the account at RBC Santora?

8 A. Yes.

9 Q. We discussed earlier that you thought it  
10 may have been held in your individual capacities.

11 A. Yes.

12 Q. Do you still believe that to be true?

13 A. No, I believe we still may have individual  
14 bank accounts there, but clearly we had a Ken-Wen  
15 bank account there.

16 Q. And when those funds -- when you made the  
17 request for the withdrawal, what was the purpose of  
18 the request?

19 A. Probably to fund another asset purchase  
20 for Ken-Wen.

21 Q. Like what?

22 A. Don't know.

23 Q. At the beginning of this deposition we  
24 said that the partnership had an identified purpose  
25 and that it was your recollection that Ken-Wen

1 never purchased assets, it purchased -- it  
2 transferred certain limited interests, limited  
3 partnership interest, but did not purchase assets;  
4 is that still correct?

5 A. No, ma'am. After all this time, it looks  
6 like we may have purchased other assets in the name  
7 of Ken-Wen.

8 Q. Apologies if you answered this, but do you  
9 recall what assets you purchased?

10 A. At that time we were doing two things. We  
11 were buying insurance policies and golf courses.

12 Q. Did you say "golf courses"?

13 A. Yes.

14 Q. And what did the partnership do with golf  
15 courses?

16 A. I don't know if the partnership did  
17 anything with golf courses. You have something  
18 else for me to see, because I don't remember  
19 whether it did or it didn't at this point.  
20 Primarily they were in KBCB, if I remember right.

21 Q. You said KBCB?

22 A. Yes.

23 Q. What is that?

24 A. That's another family limited partnership.  
25 Remember when I said to you at the beginning that



1 one separated earned assets from essentially the  
2 inherited assets or transferred assets.

3 Q. Why might Ken-Wen have bought insurance  
4 policies?

5 A. At the time I think we bought a  
6 substantial life insurance policy on Violet Werner.  
7 May have -- retirement planning or estate planning.  
8 That's the only thing we were doing. That's what  
9 that money was for, retirement planning and estate  
10 planning.

11 Q. And golf courses?

12 A. No. I don't think so. I said the golf  
13 courses, I believe, were KBCB, but then again, you  
14 know, you're helping me, reminding me of things, so  
15 it's nothing intentional.

16 Q. I'm going to hand another document to the  
17 court reporter, if she'll please mark it as  
18 Exhibits 10.

19 (Plaintiff's Exhibit 10, Fax, was marked  
20 for identification.)

21 BY MS. MARASCO:

22 Q. Have you seen this document before?

23 A. I assume I did, because it's in my  
24 handwriting again.

25 Q. Okay. And did you sign this document?

1 A. I did.

2 Q. And you signed it in your capacity as a  
3 GP, correct?

4 A. Right. I don't see any date on it,  
5 though.

6 Q. Do you see the fax number at the top of  
7 the page?

8 A. Yes.

9 Q. And to whom is this fax addressed?

10 A. Frank at Madoff Securities.

11 Q. And do you see the account number there?

12 A. I do.

13 Q. What account number is that?

14 A. 1EM226-3- -- it looks like zero.

15 Q. And this is a request to wire 150,000 and  
16 it looks like there was a request that it be sent  
17 to Paradise Bank?

18 A. Yes.

19 Q. And that appears to be crossed out; is  
20 that correct?

21 A. There's an X through it. Why, I don't  
22 know. There's other writing here. It says, "spoke  
23 to client, no wire."

24 Q. And what's the -- you see 6-21 written  
25 after that?

1 A. Yeah, it's not in my handwriting. I don't  
2 know what that is.

3 Q. Did Ken-Wen ever switch from using RBC  
4 Santora to Paradise Bank?

5 A. We may have switched or we may just had  
6 the accounts setup simultaneously. Like I said, we  
7 had different banks that we worked with and this, I  
8 think, was business practices, different.

9 Q. And if they were in existence  
10 simultaneously, why might the request be for  
11 deposit into Paradise Bank instead of RBC?

12 A. For whatever reason it was at the time, I  
13 don't know. It's, like I said, it's been a while,  
14 so I don't know.

15 Q. To your recollection, was the Paradise  
16 Bank account also held by the Ken-Wen partnership?

17 A. I believe so, because he has an account  
18 number there.

19 Q. And then it -- the deposit request, it  
20 says, "To Ken-Wen Family Limited Partnership," is  
21 that correct?

22 A. Yes.

23 Q. Okay. Who may have had access to the  
24 Paradise Bank account?

25 A. Wendy Brown and Ken Brown.

1 Q. Would anyone else have had access to the  
2 Paradise Bank account?

3 A. No.

4 Q. Do you recall whether you received  
5 contemporaneous account statements from Paradise  
6 Bank?

7 A. We got statements, sure, regularly.

8 Q. And you do at least a cursory review of  
9 them, to your recollection?

10 A. Probably, yes.

11 Q. Do you recall whether you executed a new  
12 account control agreement?

13 A. I don't know what you mean by that.

14 Q. We discussed earlier that Ken-Wen had  
15 pledged the account to RBC Santora; do you recall  
16 that?

17 A. I don't know if the whole account was  
18 pledged or a portion of the account. Yes, there  
19 was a pledge agreement with RBC Bank, but they had  
20 no influence over the account, other than there may  
21 have been a securities interest at the time. Maybe  
22 the \$600,000 paid them off, I don't know.

23 Q. To your recollection, did Paradise Bank  
24 ever have a security interest in the account?

25 A. No. Then again, I don't remember. I'm

1     sorry, I don't remember.

2           Q.     So you mentioned earlier that this has a  
3     notation that says "spoke to client, no wire," and  
4     there's an X through it.

5                   Do you recall speaking to someone at BLMIS  
6     about this request?

7           A.     No, I don't.

8           Q.     Do you know why the funds would not be  
9     wired?

10          A.     No.

11          Q.     Do you recall receiving the funds by  
12     another means?

13          A.     No.

14          Q.     Okay. I'm going to hand another document  
15     to the court reporter to mark as Exhibit 11.

16                   (Plaintiff's Exhibit 11, Check, was marked  
17     for identification.)

18     BY MS. MARASCO:

19          Q.     Have you seen this document before?

20          A.     No.

21          Q.     Can you tell me what it is?

22          A.     It's a check.

23          Q.     From whom?

24          A.     B. L. Madoff.

25          Q.     And to whom is it addressed?

1 A. Ken-Wen Family Limited Partnership.

2 Q. And what is the date of the check?

3 A. 6-26-2007.

4 Q. Okay. And what is the amount of the  
5 check?

6 A. \$150,000.

7 Q. Do you see a reference number in the  
8 bottom left-hand corner of the check?

9 A. Yes, 1EM226-3.

10 Q. And then if you turn to the second page,  
11 do you see the endorsement there?

12 A. Yes.

13 Q. And which bank does it appear to have been  
14 deposited in?

15 A. It looks like it's stamped Paradise Bank.

16 Q. Why might Mr. Madoff be writing a check  
17 for \$150,000 to the Ken-Wen Family Limited  
18 Partnership?

19 A. Probably a distribution.

20 Q. So when we talked about -- when we talked  
21 about Exhibit 10 before, that was the fax with the  
22 request for \$150,000?

23 A. Right.

24 Q. And there was the notation that says "no  
25 wire/6/21," right?

1 A. Yes.

2 Q. And here we have a check dated 6/26/2007  
3 for \$150,000 to Paradise Bank account. Suggests to  
4 me that the funds were sent by check instead of  
5 wire; does that sound like --

6 A. I have no reason to dispute that, sure.  
7 It looks like the money was sent by check, yes.

8 Q. Do you know why the money would be sent by  
9 check as opposed to wire?

10 A. No.

11 Q. So when you spoke to someone at BLMIS in  
12 connection with this request that we marked as  
13 Exhibit 10, it says "spoke to client, no wire."  
14 Did they inform you that they would not be sending  
15 a wire?

16 A. I don't know. I don't recall any of it,  
17 but, for whatever reason, the document speaks for  
18 itself. That's apparently what happened.

19 Q. Okay. I'm going to hand another document  
20 to the court reporter. This will be Exhibit 12.

21 (Plaintiff's Exhibit 12, Bank Statement,  
22 was marked for identification.)

23 MR. ROHER: Can we go off the record?

24 (Discussion held off the record).

25 BY MS. MARASCO:

1 Q. Are you all right to continue, sir?

2 A. I'm exhausted. I'm really tired. I  
3 really want to go home and go to sleep.

4 Q. I hear you.

5 A. Okay.

6 Q. Let me know if you need a break.

7 A. No, I'm fine.

8 Q. Thank you.

9 So this has been marked as Exhibit 12.  
10 This is another account statement for BLMIS at  
11 JPMorgan Chase. The account number is 140081703.

12 Is that consistent with what you see in  
13 front of you?

14 A. It is consistent with what I see, yes.

15 Q. What is the date on this statement that  
16 you have in front of you?

17 A. It looks like month end statement of  
18 December 31st, 2007.

19 Q. If we'll turn to Page 51, it's just about  
20 the last page.

21 A. Got it.

22 Q. So you actually have the highlighted  
23 version. It is the \$500,000 transfer. It's in the  
24 middle there.

25 Do you see where it says "12-31 fed wire



1 debit via Paradise Bank AC Ken-Wen Family Limited  
2 Partnership"?

3 A. Right.

4 Q. And that's a \$500,000 debit; is that  
5 correct?

6 A. Yes.

7 Q. So it's fair to say, based on this, that  
8 it looks like \$500,000 was wired from BLMIS to the  
9 Paradise Bank account held by Ken-Wen?

10 A. That's what the document says.

11 Q. Do you recall requesting a \$500,000 wire  
12 in December 2007?

13 A. No, I don't, but I just generally recall  
14 that at the time of 2007 I wanted to be getting out  
15 of the stock market. I didn't like the market  
16 conditions. That's what my business was  
17 forecasting, so that was probably a liquidation  
18 effort to get out of the stock market.

19 Q. When you made these requests, did you know  
20 how much was left in the account?

21 A. I had a fair idea.

22 Q. Based on what?

23 A. The statement.

24 Q. So the statement that was sent to you from  
25 BLMIS would reflect the balance of funds in the

1 account?

2 A. Generally, yes.

3 Q. We discussed earlier that you left the  
4 address that was identified on -- with respect to  
5 Exhibit 4, we discussed that there was an address  
6 at 405 Southwest Atlantic Drive.

7 Do you recall talking about that?

8 A. Yes.

9 Q. And you testified that you left that  
10 address in about 2005?

11 A. '06.

12 Q. Okay. You did say 2005, but now --

13 A. '06.

14 Q. -- it could be 2006?

15 A. I said 2005 or 2006. After the hurricane.

16 Q. And you told me that you had not provided  
17 an updated address to BLMIS; do you recall that?

18 A. No, Ken-Wen's address was 405 Southwest  
19 Atlantic. I didn't have any other address that I  
20 know of.

21 Q. When you said you left that address in  
22 2005, how did you receive correspondence sent to  
23 that address?

24 A. It went to the address because that's  
25 where it always went to that address. That's the

1 account address for the account, not my alternative  
2 address.

3 MR. ROHER: Are you talking personally?

4 BY MS. MARASCO:

5 Q. Let me take a step back.

6 We just discussed account statements that  
7 you reviewed to determine the account -- the  
8 balance left in the account, right?

9 A. Yes.

10 Q. Okay. And how did you -- where were those  
11 account statements sent?

12 A. To 405 Southwest Atlantic.

13 Q. Were they always sent to that address?

14 A. Yes.

15 Q. So you said that you left in about 2005 or  
16 2006; is that right?

17 A. That's correct.

18 Q. So for documents sent to that address  
19 after 2005 or 2006, how did you access them?

20 A. I didn't.

21 Q. So when you made a request to withdraw  
22 \$500,000 in 2007, how would you have known how much  
23 was left in the account?

24 A. I would -- I would have been generally  
25 informed, plus I file tax returns jointly, so I was

1 fairly well-informed as to the value levels of the  
2 account.

3 Q. By whom would you be informed?

4 A. Ms. Brown. We talked.

5 Q. Did you receive account statements as  
6 well?

7 A. Or I would go to the house and review them  
8 from time to time, but the address was always 405.  
9 I wasn't trying to be ignorant of them, no. We  
10 just had no decision making over them, other than  
11 we could make withdrawals. That's the only  
12 decisions we could make.

13 Q. So when you would have made a request in  
14 December 2007 to withdraw \$500,000 from the  
15 account, would you have conferred with Ms. Brown?

16 A. Yes.

17 Q. Would you need her consent to make that  
18 request?

19 A. I think so. Yes, I think, because we were  
20 both general partners at the time. Certainly if  
21 there was a disagreement, then I think that there  
22 would have been a disagreement, but it didn't  
23 happen, so --

24 Q. For example, what might have happened, if  
25 you know, if you had made a request for a

1 withdrawal that exceeded the amount in the account?

2 A. It would not have happened. First of all,  
3 Madoff would not have sent a withdrawal greater  
4 than the amount that's in the account. It's just  
5 not going to happen in the securities business.

6 Q. Would that have been discussed? Would you  
7 have made a phone call to determine how much was  
8 left in the account?

9 A. Probably.

10 Q. I'm going to hand another document to the  
11 court reporter to mark as Exhibit 13.

12 (Plaintiff's Exhibit 13, Fax Request, was  
13 marked for identification.)

14 BY MS. MARASCO:

15 Q. So this is going to be a little bit out of  
16 order. Put that to the side for now. This is  
17 going to be Exhibit 14.

18 (Plaintiff's Exhibit 14, Request for  
19 Transfer, was marked for identification.)

20 BY MS. MARASCO:

21 Q. So now you have what's in front of you as  
22 Exhibit 14. We'll talk about Exhibit 13 in just a  
23 minute.

24 Do you recognize this document?

25 A. Which exhibit am I on?

1 Q. This is 14.  
2 A. You want me to talk about that one?  
3 Q. Yes.  
4 A. Okay.  
5 Q. Do you recognize this document?  
6 A. It's in my handwriting.  
7 Q. Okay. And what does it appear to be?  
8 A. A transfer of \$500,000.  
9 Q. It's a request for a transfer of 500,000;  
10 is that right?  
11 A. "Please wire transfer 500,000 to Ken-Wen  
12 Family Limited Partnership."  
13 Q. Do you see the address there?  
14 A. I do.  
15 Q. And is that the address we were just  
16 discussing before?  
17 A. Yes.  
18 Q. That's 405 Southwest Atlantic Drive?  
19 A. Yes.  
20 Q. To what account is the request seeking a  
21 deposit?  
22 A. Ken-Wen Family Limited Partnership at  
23 Paradise Bank.  
24 Q. Okay. And you signed this document in  
25 your capacity as GP; is that right?

1 A. I did.

2 Q. And then at the top in the bottom -- I'm  
3 sorry, at the top left-hand corner there's a note  
4 that says "free hand," do you see that?

5 A. I do.

6 Q. What does that mean?

7 A. I don't know.

8 Q. Is that your handwriting as well?

9 A. No.

10 Q. And then in the right-hand side in that  
11 big blank space there it says "3.6 million," do you  
12 see that?

13 A. I do.

14 Q. Does that sound like that may have been  
15 the balance?

16 A. I think so.

17 Q. And then you see the bottom, it looks like  
18 a little symbol there, and it says "12/31"?

19 A. Yes.

20 Q. Now, I will turn to what was previously  
21 marked as Exhibit 13 that everyone should have.  
22 And this appears to be another fax request; is that  
23 correct?

24 A. Yes, it is.

25 Q. And is this your handwriting?

1 A. Yes, it is.

2 Q. And to whom is the fax addressed?

3 A. Frank at Madoff.

4 Q. Do you see the reference number there?

5 A. Yes.

6 Q. What account is that?

7 A. Ken-Wen Family Limited Partnership.

8 Q. And the account number?

9 A. 1EM226-3-0.

10 Q. And then what does it say just beneath

11 that?

12 A. "Please liquidate \$3 million from the

13 account and wire transfer proceeds to Ken-Wen

14 Family Limited Partnership, Paradise Bank."

15 Q. Do you recall why you made a request to

16 liquidate the account?

17 A. Yes.

18 Q. Why?

19 A. I was troubled by the stock market. I

20 wanted to get liquidity as quickly as possible and

21 at the time we decided we wanted to have greater

22 control over our moneys, rather than have a

23 discretionary account, which we had no control

24 over, if we were looking at hard times coming in

25 the marketplace, which eventually did. It was



1 called the financial crisis of 2008, 2009, 2010,  
2 2011, 2012. That's why we got out of the  
3 marketplace.

4 Q. And you said you were troubled by the  
5 market. What caused you to be troubled?

6 A. The policy at the fed and the misstated  
7 conditions of our banking system. Something called  
8 subprime loans. I can go on and on. Our  
9 disappointments over trade and the way we were not  
10 being able to accomplish anything in Congress to do  
11 anything about stimulating growth.

12 Q. And you were in tune with this. Was that  
13 in connection with your business?

14 A. Yes, yes, religiously.

15 Q. And K. W. Brown Investments and 21st  
16 Century were still operating?

17 A. Yes.

18 Q. Okay. Did you tell me when they stopped  
19 operating?

20 A. March of 2008.

21 Q. So with the request to liquidate the 3  
22 million, was it your understanding that that  
23 withdrawal would wipe out the account?

24 A. I think that -- if I may proceed ahead of  
25 you. It says 3.1 down at the bottom. I thought a

1 small residual would be there to keep the account  
2 open, in case we wanted to come back.

3 Q. And do you recall receiving the funds, the  
4 \$3 million in funds?

5 A. Yes.

6 Q. Do you recall where they were deposited?

7 A. At Paradise Bank.

8 Q. And what did you do with those funds?

9 A. We had established some sophisticated  
10 financial planning and estate planning by creating  
11 an offshore trust so that we could trade in foreign  
12 currencies. With the U.S. dollar at any of the  
13 relationship of what the banking system was telling  
14 me, the Australian dollar was at \$0.55 to the  
15 dollar. The Canadian dollar was at \$0.62 to the  
16 dollar and I could see our dollar falling the same,  
17 so I wanted to get out of U.S. currency for a  
18 safety feature.

19 Q. Was the full 3 million invested into the  
20 offshore?

21 A. I think 3.8 million was.

22 Q. Where did the other .8 come from?

23 A. I don't know now. It's a long time, but  
24 the other statements I think show that somewhere  
25 along the line.

1 Q. And you said it was a trust?

2 A. Yes.

3 Q. What was the name of the trust?

4 A. South Pack.

5 Q. Just to close the loop on that, I'm going  
6 to hand to the court reporter to mark as  
7 Exhibit 15.

8 (Plaintiff's Exhibit 15, Bank Statement,  
9 was marked for identification.)

10 BY MS. MARASCO:

11 Q. If you'll turn to Page 47 of 63.

12 Are you there?

13 A. Yes.

14 Q. Do you see in the middle of the page  
15 there's an entry -- sorry. Just to take a step  
16 back.

17 Do you recognize this document?

18 A. I don't recognize the document.

19 Q. What do you understand it to be?

20 A. I understand it to be Madoff's Baton Rouge  
21 statement at Chase Bank, Chase Morgan.

22 Q. And what is the date on this statement?

23 A. Ending date is January 31st, 2008.

24 Q. And then the account number is 140081703;  
25 is that correct?

1 A. Yes, same as the previous one.

2 Q. So turning back to Page 47 of 63, now that  
3 we've established what it is. I'm looking at the  
4 middle of the page, entry on January 24th, 2008.

5 Do you see "fed wire debit via Paradise  
6 Bank AC Ken-Wen Family Limited Partnership transfer  
7 for ref Ken-Wen for \$3 million"?

8 A. Yes.

9 Q. And is that consistent with the request  
10 that you made to liquidate the account that we just  
11 discussed in Exhibit 13?

12 A. Yes.

13 Q. Okay. So it's accurate to say that the  
14 funds would have been transferred from BLMIS to the  
15 Paradise Bank account?

16 A. Yes.

17 Q. This will be Exhibit 16.

18 (Plaintiff's Exhibit 16, Check, was marked  
19 for identification.)

20 BY MS. MARASCO:

21 Q. Do you recognize this document?

22 A. No.

23 Q. Looking at it now, can you tell me what it  
24 is?

25 A. It's a check from B. L. Madoff to Ken-Wen

1 Family Limited Partnership.

2 Q. And what's the date on the check?

3 A. 11-17-2003 or is that 2008? I can't make  
4 it out.

5 Q. Actually, if you look on the left-hand  
6 side under the star 031, there's a date there  
7 that's a little more clear.

8 A. 11-25-2008.

9 Q. Okay. And do you see the account number  
10 referenced in the bottom left-hand corner?

11 A. I do.

12 Q. And what is the account number?

13 A. 1EM226-3.

14 Q. And then on the back page, do you see  
15 whether or not -- can you tell me whether this  
16 check was endorsed?

17 A. It was.

18 Q. By whom?

19 A. It would appear to be Ms. Brown's  
20 handwriting to Paradise Bank.

21 Q. But it says Ken-Wen Family; is that right?

22 A. Yes.

23 Q. We discussed earlier you made a request to  
24 liquidate the account for 3 million and I said,  
25 "Did that wipe out the account?" And you said,

1 "You would guess that, because the bottom of the  
2 page said 3.1, that there would be 100,000 left in  
3 the account to keep it open," do you recall that?

4 A. I do recall that.

5 Q. Okay. This check appears to be in the  
6 amount of 200,000; is that correct?

7 A. Yeah, it's 200,000.

8 Q. Why might this check exceed the balance  
9 that you believe to be in the account?

10 A. Well, whatever was -- I don't know if this  
11 is the last check or the liquidating check.  
12 Further, we left a small balance in the account. I  
13 don't remember what the residual was because the  
14 3.1 was not my handwriting. So I wanted to  
15 liquidate the account and just leave the vestige of  
16 the money there and my wife also agreed with that.

17 Q. Do you recall requesting \$200,000?

18 A. No. I was no longer a general partner  
19 then.

20 Q. This will be Exhibit 17.

21 (Plaintiff's Exhibit 17, Bank Statement,  
22 was marked for identification.)

23 BY MS. MARASCO:

24 Q. Do you recognize this document?

25 A. Yes.

1 Q. Can you tell me what it is?

2 A. It's a handwritten document by me for

3 200,000. I don't know what the date is.

4 Q. Do you see the account number there?

5 A. I do.

6 Q. What account number is that?

7 A. Same as always, EM226-3.

8 Q. It says, "Please mail check to Ken-Wen FLP

9 Limited for 200,000 as requested." Am I reading

10 that correctly?

11 A. Yes.

12 Q. And to whom is this request addressed?

13 A. Irwin at Madoff.

14 Q. I'm reading that as Aaron.

15 A. Aaron? Okay. At Madoff, yes.

16 Q. Do you recall speaking with Aaron?

17 A. No.

18 Q. How did you know to send the request to

19 Aaron?

20 A. Most likely by discussing it.

21 Q. And did you sign this document?

22 A. I did.

23 Q. And how did you sign this document?

24 A. Kenneth Brown FLP.

25 Q. And we just discussed the \$200,000 check

1 and I asked you if you had requested it and you  
2 said you don't recall, but you weren't a general  
3 partner at that time.

4 A. That's right.

5 Q. Is that still correct?

6 A. Yes.

7 Q. Do you see the handwritten notation at the  
8 bottom left-hand corner, the 11/17?

9 A. Yes.

10 Q. Looking now at Exhibit 16, can you just  
11 tell me again the date on the check?

12 A. 11-17-2008.

13 Q. Okay. So is it likely that that check was  
14 a result of this request?

15 A. Yes.

16 Q. Okay. But it's your testimony that you  
17 were not a general partner at that time?

18 A. That's right.

19 Q. And so why did you make a request for a  
20 \$200,000 withdrawal?

21 A. Probably to facilitate a transfer of the  
22 money out of the account.

23 Q. And how did you know that there was  
24 \$200,000 left in the account?

25 A. I don't recall, but it went to 405



1 Southwest Atlantic where I wasn't living at the  
2 time.

3 Q. Do you recall conferring with Ms. Werner  
4 with respect to this request?

5 A. I'm sure we would have discussed it.

6 Q. And then at the bottom corner of the  
7 account, do you see handwriting there?

8 A. I do.

9 Q. And that's not your handwriting; is that  
10 correct?

11 A. No, it's not.

12 Q. Can you tell me what it says?

13 A. "Asterisk will be refunding account with  
14 brackets three million in."

15 Q. Okay. And did you ever refund the  
16 account?

17 A. No.

18 Q. We discussed earlier that it was -- you  
19 were troubled by the market and that you wanted to  
20 get out of the market; do you recall that?

21 A. Yes, absolutely. That's exactly right.

22 Q. Why might this notation indicate that you  
23 would be refunding the account?

24 A. Well, market conditions improved. Right  
25 now, my philosophy was to be more aggressive with

1 the investments, whereas my spouse was very  
2 conservative. So it was an idea that maybe Madoff  
3 was good because it was the first time my  
4 investment balance differently, but at this time I  
5 think I was overpowering and said we got to get out  
6 of the market, doesn't look good to me, and she  
7 would trust my judgment as to market conditions.

8 Q. Over the life of the account, did you ever  
9 invest money into the account?

10 A. No, not that I know of. Again, you could  
11 help me with memory, because I don't recall doing  
12 it.

13 Q. When I say "you" obviously I mean the  
14 partnership or you in your general partnership  
15 capacity.

16 A. No, I think it was primarily all the  
17 assets that were originating from my spouse's  
18 family investments and interest that were in this  
19 account.

20 Q. And when you made this \$200,000  
21 withdrawal, how did you use those funds?

22 A. Don't know.

23 Q. Did you ever reinvest funds from a  
24 withdrawal back into the account?

25 A. They were always in the account that I

1 know of.

2 Q. When --

3 A. Somewhere within -- somewhere with the  
4 name Ken-Wen on it. At the time I was general  
5 partner or some influence like that, but then again  
6 they may have been used for personal assets,  
7 personal expenditures at the household or something  
8 like that. I don't know. I kind of did -- I kind  
9 of did the management of the businesses for the  
10 investment service circumstances and my spouse,  
11 Wendy, was primarily doing most of the accounting  
12 and bookkeeping, record keeping, and kept  
13 everything straight.

14 Q. Did you confer with anyone other than  
15 Ms. Werner about your decision to withdraw the  
16 funds from the account?

17 A. Most likely, no.

18 Q. And to your knowledge, was this \$200,000  
19 withdrawal, did that wipe out the account?

20 A. I don't know if it wiped it out, because  
21 we wanted to try to keep some residual there in  
22 case we wanted to do something later.

23 Q. Did you receive resistance to your request  
24 to liquidate the account?

25 A. I think I might have at this last thing

1 here with -- we will be refunding with the 3  
2 million, but the financial crisis hadn't matured in  
3 November of 2008 yet. It was only another couple  
4 of months later it just fell apart.

5 Q. You can put that to the side for now.

6 So I handed you at the very start of the  
7 deposition a copy of our amended complaint. I  
8 don't know if you still have that or not.

9 A. Document 82?

10 Q. Very good.

11 Okay. I'm just going to have her mark  
12 that as Exhibit 18 and I'll give it back to you.

13 (Plaintiff's Exhibit 18, Amended  
14 Complaint, was marked for identification.)

15 BY MS. MARASCO:

16 Q. So this is the amended complaint. And  
17 then at the same time I'm going to hand to you a  
18 document that will be marked as Exhibit 19.

19 (Plaintiff's Exhibit 19, Answers, was  
20 marked for identification.)

21 BY MS. MARASCO:

22 Q. So you should have in front of you now,  
23 which I'm handing you, both Exhibits 18 and 19 and  
24 I want you to turn in Exhibit 18 to the last page.  
25 It's the chart all the way at the back.

1           A.    Can you tell me what the difference is  
2   between the two documents?

3           Q.    Sure.

4                    So Exhibit 18, if you look, if you flip to  
5   the first page, like after the caption, the first  
6   amended complaint.

7           A.    Right.

8           Q.    So this was the complaint that the  
9   trust -- the amended complaint that the trustee  
10   filed against the Ken-Wen partnership.

11          A.    Right.

12          Q.    Exhibit B of the amended complaint, which  
13   is all the way in the back of this one, it looks  
14   like this, that chart. That's what I want you to  
15   keep out in front of you.

16          A.    Okay.

17          Q.    So while you are looking at that chart,  
18   we're going to get a little confusing, but 19 is  
19   the other document that you have there.

20          A.    Yes.

21          Q.    That is the answers to the trustee's first  
22   request for admission by the Ken-Wen Limited  
23   Partnership.

24                   Do you see that at the top?

25          A.    Yes.

1 Q. Okay. So in Exhibit 19, which is the  
2 response, I want you to turn to the response -- I'm  
3 sorry, it's on Page 6. There's admission number  
4 five and answer to admission number five at the  
5 top.

6 Do you see that there?

7 A. Yes.

8 Q. Okay. So admission number five says,  
9 "Admit that column five of Exhibit B to the  
10 complaint, which is defined as the amended  
11 complaint, accurately reflects the withdrawals from  
12 the account."

13 Did I read that correctly?

14 A. Yes.

15 Q. And then the answer to admission number  
16 five says, "Admit upon information and belief," do  
17 you see that?

18 A. Yes.

19 Q. So looking at this Exhibit B, that this  
20 admission is referring to, do you see column five  
21 where it says "withdrawals"?

22 A. Yes.

23 Q. Okay. So do you agree that this document  
24 here, that column five accurately reflects the  
25 withdrawals from the account?

1 A. I don't know.

2 Q. Did you work with your attorney to  
3 prepare?

4 MR. ROHER: I'm going to object. This  
5 isn't our response. This is a -- Ken-Wen  
6 responded to these.

7 MS. MARASCO: Did you provide a separate  
8 response?

9 MR. ROHER: I don't represent Ken-Wen. I  
10 don't know why you're asking him about this.  
11 I represent -- this is Ken Brown.

12 MS. MARASCO: He's the general partner of  
13 Ken-Wen partnership.

14 MR. ROHER: No, he's no longer a general  
15 partner.

16 MS. MARASCO: He was at the time.

17 MR. ROHER: At the time of what?

18 MS. MARASCO: At the time of the transfer.

19 MR. ROHER: Of the transfers?

20 MS. MARASCO: Correct.

21 MR. ROHER: First of all, I don't even --

22 MS. MARASCO: I'm going to ask you, if you  
23 want to have a discussion, we can discuss, but  
24 I'm going to ask you not to do this in the  
25 middle of a deposition.

1 MR. ROHER: So I object to this whole line  
2 of questioning.

3 Do you realize who filed this?

4 MS. MARASCO: I do.

5 MR. ROHER: Just so I'm -- just so I'm on  
6 the same page with you --

7 MS. MARASCO: This is not a deposition of  
8 me.

9 MR. ROHER: Okay, but I don't know why you  
10 are asking him questions about this. It's not  
11 his answers to the admissions. You are asking  
12 the wrong party.

13 MS. MARASCO: He was a general partner  
14 but --

15 MR. ROHER: Honestly, this is making no  
16 sense to me. He was a general partner as of  
17 2008. This isn't even --

18 MS. MARASCO: I'm going to note for the  
19 record that counsel is making a very lengthy  
20 speaking objection and I would just ask that  
21 we could have this discussion off the record.

22 MR. ROHER: That's fine. We can go off  
23 the record. I never refuse to go off the  
24 record.

25 MS. MARASCO: I'm going to ask you then



1 questions using Exhibit 19, which is the --  
2 which is this Exhibit B here, this chart.  
3 This is a complaint that was filed against the  
4 Ken-Wen Limited Partnership and names  
5 Mr. Brown as general partner and a defendant,  
6 so I'm going to proceed with using this  
7 document.

8 BY MS. MARASCO:

9 Q. When we are looking at this document,  
10 column five identifies certain withdrawals; do you  
11 see that?

12 A. Yes.

13 Q. And these are withdrawals that were made  
14 from the account. If you see at the top, BLMIS  
15 account 1EM226, Ken-Wen Family Limited Partnership  
16 Limited. Do you see that?

17 A. Yes.

18 MR. ROHER: Object to form.

19 BY MS. MARASCO:

20 Q. Okay. So at the bottom, let's start from  
21 the very bottom. Do you see that there is a date  
22 11-17-2008, a check for \$200,000, and do you see  
23 that amount as a withdrawal?

24 A. Yes.

25 MR. ROHER: Object to form.

1 BY MS. MARASCO:

2 Q. And so that was the \$200,000 check that we  
3 just discussed from Mr. Madoff?

4 MR. ROHER: Object to form.

5 THE WITNESS: It's the same date, yes.

6 BY MS. MARASCO:

7 Q. Okay. And then going one above to the  
8 January 24th, 2008 check wire and you see that  
9 \$3 million withdrawal?

10 A. Yes.

11 Q. And we discussed that was the request to  
12 liquidate the account?

13 MR. ROHER: Object to form.

14 THE WITNESS: Yes.

15 BY MS. MARASCO:

16 Q. Okay. And then one above, 12-31-2007  
17 check wire, \$500,000 withdrawal. Do you see that  
18 as well?

19 A. Yes.

20 Q. And do you recall us discussing that as a  
21 wire into the Paradise Bank account?

22 A. Yes.

23 MR. ROHER: Object to form.

24 MS. MARASCO: I would just ask that you  
25 not interrupt your client when he's answering.

1 MS. ROHER: So let me object.

2 THE WITNESS: I will.

3 MR. ROHER: Ken, let me object.

4 THE WITNESS: I understand. I understand  
5 now.

6 BY MS. MARASCO:

7 Q. And then just one further up, 6-26-2007,  
8 check, \$150,000. Do you recall discussing that  
9 check from Mr. Madoff?

10 MR. ROHER: Object to form.

11 THE WITNESS: I recall, yes.

12 BY MS. MARASCO:

13 Q. Okay. So is it accurate to say, at least  
14 with respect to those four transfers, that this  
15 chart accurately reflects withdrawals from the  
16 account?

17 MR. ROHER: Object to form.

18 THE WITNESS: It comports with what we  
19 discussed today, yes.

20 BY MS. MARASCO:

21 Q. Okay. And we discussed that when those  
22 withdrawals were made, they were deposited into an  
23 account held by the Ken-Wen Family Partnership; is  
24 that correct?

25 A. Those three deposits, yes.

1 Q. The four?

2 A. Four deposits, yes.

3 Q. Okay. We discussed earlier that the  
4 accounts at either RBC or Paradise Bank was held in  
5 the name of the partnership; is that right?

6 A. Yes.

7 Q. We discussed that only you or Wendy had  
8 access to the RBC Bank; is that correct?

9 A. That's my understanding, yes.

10 Q. Only you and Wendy had access to the  
11 Paradise Bank account; is that correct?

12 A. That would be my understanding, yes.

13 Q. Do you have any reason to believe that  
14 anyone else would have accessed or would have had  
15 access to the four withdrawals that we just  
16 discussed?

17 A. No.

18 Q. Okay. We discussed earlier that you  
19 called BLMIS and spoke with someone on the phone  
20 when you wanted to make a withdrawal; is that  
21 correct?

22 A. I think so, yes.

23 Q. Did you ever meet with anyone at BLMIS in  
24 person?

25 A. No, never did.

1 Q. Never?

2 A. I wanted to meet with Madoff, but it never  
3 happened.

4 Q. Did you ever meet Mr. Pascali?

5 A. No.

6 Q. And so how do you know who to call when  
7 you wanted to make a withdrawal?

8 A. They would answer the phone.

9 Q. So it was just a general line and you were  
10 directed to whomever answered the phone?

11 A. Yes, and I would say "I want to do a  
12 transfer."

13 Q. There were no extensions or anything like  
14 that?

15 A. No, it seemed like a very small firm at  
16 the time.

17 Q. Okay.

18 A. Which made it seem personal.

19 Q. And then when you spoke to someone on the  
20 phone, they would give you instruction about how to  
21 make the withdrawal request; is that correct?

22 A. Precisely.

23 Q. Did BLMIS send written correspondence to  
24 your recollection?

25 A. No.

1 Q. So most of your dealings were over the  
2 phone or through the fax request that we just  
3 discussed?

4 A. Yes.

5 Q. And you said earlier that you received  
6 account statements, right?

7 A. There was account statements sent to the  
8 house monthly, quarterly. I don't know whether  
9 quarterly or monthly, I forget, but statements were  
10 sent.

11 Q. And those, from your cursory review of  
12 those statements, which I think you said earlier  
13 they purported to represent the trading in the  
14 account?

15 A. Yes.

16 Q. Okay. And did they also receive --  
17 identify the balance in the account?

18 A. Yes.

19 Q. Did you ever receive any sort of trade  
20 confirmation other than the account statements?

21 A. Occasionally. I don't remember receiving  
22 them as often as they looked like there was trades.  
23 So I remember receiving. I thought we received  
24 some trade confirmations, but I don't remember  
25 seeing the detail of all of the trade

1 confirmations.

2 Q. Okay. We discussed earlier that Ken-Wen  
3 came to hold the account because it was transferred  
4 when a trust expired. Did I state that correctly?

5 A. Essentially it was a rollover from a  
6 previous trust that was in Wendy's name personally  
7 prior to our being married and then her age, I  
8 think, caused it to mature.

9 Q. Okay. So whatever funds were in the  
10 account at the time, just prior to rollover, were  
11 transferred to the account post rollover?

12 A. That's right.

13 Q. Do you recall what the balance was?

14 A. No idea.

15 Q. So still looking at that chart that we've  
16 been looking at that was marked Exhibit 18. Do you  
17 see at the top "1-4-1993 trans from EM2"? Do you  
18 see that?

19 A. Yes.

20 Q. And then column three identifies 535,163?

21 A. I'm sorry, what are you looking at?

22 535,163?

23 Q. I may have misstated that. Column three  
24 has 535,163.

25 A. Okay.

1 Q. And then transfers in \$340,000. Do you  
2 see that, what's in column six?

3 A. Yes.

4 Q. Does it sound accurate?

5 A. I have no idea whether that's accurate or  
6 not.

7 Q. Okay. Now, you can put that one to the  
8 side.

9 This will be Exhibit 20.

10 (Plaintiff's Exhibit 20, File Maintenance,  
11 was marked for identification.)

12 BY MS. MARASCO:

13 Q. Do you recognize this document, Mr. Brown?

14 A. No.

15 Q. Do you see the top? It says, "Name and  
16 address file maintenance"?

17 A. Yes.

18 Q. And do you see the account number there?

19 A. Yes.

20 Q. What is that account number?

21 A. EM22630/40.

22 Q. And then Line 1, do you see where it says  
23 Ken-Wen Family Limited?

24 A. Yes.

25 Q. And then there's the 405 Southwest



1 Atlantic Drive?

2 A. Yes.

3 Q. And then the date at the bottom, it says  
4 1/10/93 DK, do you see that?

5 A. Okay.

6 Q. If you turn to the second page, the top,  
7 it says "Mr. or Mrs. H. Werner". All the way at  
8 the bottom, it says "Wendy E. Brown" and then the  
9 middle it says what appears to be "Melvin Mander".  
10 Who's Melvin Mander?

11 A. I don't know.

12 Q. So I think this is probably the closing of  
13 the loop that we discussed before.

14 If you look at the bottom of the page on  
15 the first page?

16 A. Yes.

17 Q. You see how it says type, Type 1, 2, 3, 4,  
18 5, 6, 7, 8, 9, all the way to the column?

19 A. Yes.

20 Q. And then 3 and 4 are circled. Do you see  
21 that?

22 A. Yes.

23 Q. I think that's consistent with our  
24 discussion before about why the accounts might be  
25 ending in 3 or 4.

1 A. I think so. It doesn't explain the zero.

2 Q. Exactly. I just wanted to point that out.

3 Okay. I just wanted to --

4 A. The further you go down from the 1 to the  
5 7, 8, 9, there's disclosures that the brokerage  
6 firm is making to the client as to what their  
7 authority is and what trading levels and risk  
8 levels they can take, essentially what that is, as  
9 to what type of accounts they could have. Maybe 9  
10 would be commodities or something. Who knows. Or  
11 certain things.

12 But anyway, 1 generally would be cash  
13 only. No margin. No leverage. 2 could provide  
14 some leverage. Maybe 3 would have all the  
15 functions of options, margin and any other type of  
16 leverage and maybe 4 would include maybe short  
17 sales or something like that. So it's a degree of  
18 sophistication for the account.

19 Q. Okay.

20 A. We were not a 5, 6, 7, 8 or 9. We didn't  
21 have that as a distinction as to the sophistication  
22 of the account.

23 Q. And you said 3 might be short sales?

24 A. I'm just saying.

25 Q. It could be an example?

1           A.    I'm broad stroking with you.  3 could be  
2    maybe options.  4 may be including riskier  
3    transactions as to short sales, short options,  
4    things like that.  Much higher level or maybe  
5    foreign securities, maybe 5, I don't know.

6           Q.    Okay.

7           A.    But it's all within the same account.

8           Q.    So you said that you left the partnership  
9    or your general partnership interest was  
10   transferred to a limited partnership interest on or  
11   about February 29th, 2008 --

12          A.    Yes.

13          Q.    -- is that correct?

14                Okay.  When did you first hear that BLMIS  
15   was a fraud?

16          A.    In the news.

17          Q.    Do you recall when?

18          A.    Was it, like, December of 2009 or  
19   something like that?

20          Q.    I think I'm just asking was it before or  
21   after you transferred your general partnership  
22   interest.

23          A.    Oh, it was after.

24          Q.    And you said you heard it from the news?

25          A.    Yes.

1 Q. Do you recall whether there were any funds  
2 in the account at the time your general partnership  
3 interest was transferred?

4 A. I don't think there was, but I don't  
5 recall.

6 When the account was transferred? What do  
7 you mean? Try that again.

8 Q. Tell me how you came to no longer be a  
9 general partner.

10 A. On February 29th, 2008, I resigned because  
11 of a subsequent document where my interest was  
12 transferred as to the 1 percent general partner  
13 interest to a limited partner interest which added  
14 to me with my 49 percent limited partner interest.  
15 So I no longer had any managerial or residual  
16 decisions on the accounts, the direction of the  
17 accounts. Wendy was the sole general partner at  
18 that point because of documentation.

19 Q. On February 29th, 2008, do you recall  
20 whether there were funds left in the account?

21 A. Nominal amounts of funds. I don't know.  
22 We're seeing later that November there was 200,000,  
23 so I don't know what was in there at the time. We  
24 just left -- at the time the \$3 million was  
25 withdrawn was to leave a vestige of money in there

1 just to have the relationship to continue. That's  
2 the only reason that was done, the last  
3 distribution of -- what was it, January 31st?

4 Q. 200,000?

5 A. The 3 million. That was essentially, I  
6 would say, that's more than the lion's share of the  
7 accounts, that's really closing the account except  
8 for leaving back a residual of money, small amount.  
9 Whether it was 200,000, 100,000, 50,000, 10,000, I  
10 don't know.

11 Q. When you resigned as partner, do you  
12 recall taking any distributions from the balance in  
13 the account?

14 A. No.

15 Q. Did you receive part of the \$200,000 that  
16 was withdrawn in November 17, 2008?

17 A. No.

18 Q. If you were no longer a general partner of  
19 Ken-Wen as of February 29th, 2008, why did you make  
20 the request for a withdrawal on November 17th,  
21 2008?

22 A. I probably was requested to.

23 Q. By whom?

24 A. Probably by Ms. Brown at the time.

25 Q. Did she also have authority to request a

1 withdrawal?

2 A. Of course. She was a sole general  
3 partner. She was in charge, so she might have  
4 asked me to do it. I might have convinced her to  
5 do it. I don't know, but I don't think there was  
6 any notice or any indication that Madoff was  
7 committing frauds at that time. Certainly that was  
8 not even within our scope of imagination. We  
9 thought that he was almost walking a water as a  
10 principal and as an untouchable guy of integrity.

11 Q. So years later when you saw the complaint  
12 as against the partnership and the trustee made  
13 certain requests for documents, what steps, if any,  
14 did you take to try and locate documents?

15 A. I had never seen the complaint. I was  
16 never noticed or serviced (sic) the complaint. I  
17 was aware that there had been a complaint filed,  
18 but I was not -- I never received a summons or  
19 process or anything about the complaint personally.

20 Q. So in your capacity as general partner,  
21 you responded to certain discovery requests from  
22 the trustee or a response was provided.

23 Did you confer with counsel?

24 A. No, because I didn't have a response  
25 formulated until like 2015 or '16, '17. I wasn't

1 even aware I received some correspondence that I  
2 was in default on the first complaint, not the  
3 amended complaint, and I hit the ceiling. Scared  
4 as hell. How could that happen? I had already  
5 filed Chapter 11 on February 14th, 2013, so I don't  
6 know how I was even a part of any of this.

7 Q. Were you --

8 A. I didn't receive the fruits, nor the  
9 harvest.

10 Q. What do you mean by that?

11 A. The fruits no longer were in my possession  
12 and the stock market is up 300 percent since this  
13 time period. So if it was 3 million, 4 million,  
14 whatever was taken from the account, that would be  
15 close to 9 million today. It's not. I don't know  
16 where it is. So I don't have the fruit, nor the  
17 harvest because the moneys didn't stay with me.

18 Q. We discussed earlier that certain funds  
19 were invested into an offshore trust. Do you  
20 recall that?

21 A. Yes.

22 Q. Are those funds still there?

23 A. No.

24 Q. Do you recall where they went?

25 A. No, they were transferred back to her

1 family accounts.

2 Q. We discussed earlier that certain account  
3 statements were mailed to your address. Do you  
4 recall that?

5 A. They were mailed to 405 Southwest  
6 Atlantic.

7 Q. Correct.

8 Was there ever a time that they were  
9 emailed or sent by other means?

10 A. Not that I can remember. Never, if ever.  
11 I can't -- I don't remember that.

12 Q. What year did you say you filed  
13 Chapter 11?

14 A. February 14th, 2013.

15 MS. MARASCO: Okay. I can pass the  
16 witness. I don't know if either of you have  
17 any questions.

18 MR. BERNFELD: I'm sorry, I didn't hear  
19 what you said.

20 MS. MARASCO: I'm going to pass the  
21 witness.

22 THE WITNESS: That means we can take a  
23 bathroom break?

24 MS. MARASCO: We certainly can, if that's  
25 all right.



1 THE WITNESS: If I may speak out.

2 MS. MARASCO: Yes.

3 MR. BERNFELD: You are finished?

4 MS. MARASCO: I may have some follow-up  
5 based on any other questions that are asked.

6 (Brief recess from 12:23 p.m. to 12:29  
7 p.m.)

8 MS. MARASCO: Do you want to be able to  
9 review the transcript of the deposition in  
10 order to review for any --

11 MR. ROHER: He'll waive.

12 (Deposition concluded at 12:30 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA  
COUNTY OF BROWARD

I, the undersigned authority, certify  
that the witness, KENNETH WILLIAM BROWN, personally  
appeared before me on the 27th day of January,  
2020, and was duly sworn.

Signed this 30th of January, 2020.



FELECIA CURRERI, RPR  
Notary Public - State of Florida  
My Commission Expires: 12-19-2023  
Commission No. GG 933850

CERTIFICATE OF REPORTER

STATE OF FLORIDA  
COUNTY OF BROWARD

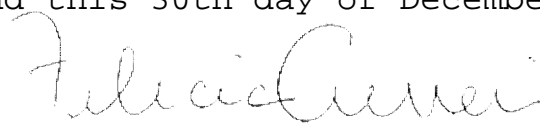
I, FELECIA CURRERI, Registered Professional Reporter, State of Florida at Large, do hereby certify that the aforementioned witness was by me first duly sworn or affirmed to testify to the whole truth; that I was authorized to and did report said deposition in stenotype; and that the foregoing pages, numbered from 5 to 104, inclusive, are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not an attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of any party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of December, 2020.

  
Felecia Curreri, RPR  
Notary Public - State of Florida  
My Commission Expires: 12-19-2023  
Commission No. GG 933850

<b>A</b>	48:24 49:8,15	13:14 15:17	<b>advisory</b> 12:16	<b>answers</b> 4:21
<b>a.m</b> 1:18 23:10	50:9,10,12,18	43:18 51:14	<b>affirm</b> 5:6	5:24 6:2,2
<b>a/k/a</b> 24:15	51:20 52:24,25	52:18 54:6	<b>affirmative</b> 25:5	83:19 84:21
29:16	53:21 54:3,4,7	75:13 90:13	25:18	87:11
<b>Aaron</b> 78:14,15	54:15 57:11,13	95:4,5	<b>affirmed</b> 5:13	<b>anymore</b> 23:13
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